

111TH CONGRESS
1ST SESSION

H. R. 3640

To amend the Internal Revenue Code of 1986 to extend and expand the first-time homebuyers credit and to provide a loss deduction on the sale of a principal residence.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2009

Mr. CHILDERS (for himself and Mr. KRATOVIL) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to extend and expand the first-time homebuyers credit and to provide a loss deduction on the sale of a principal residence.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. HOMEBUYER CREDIT ALLOWED FOR ANY PUR-**
4 **CHASE OF PRINCIPAL RESIDENCE.**

5 (a) IN GENERAL.—Subsection (a) of section 36 of the
6 Internal Revenue Code of 1986 is amended by striking
7 “who is a first-time homebuyer of a principal residence”
8 and inserting “who purchases a principal residence”.

1 (b) APPLICATION TO ONLY 1 SALE.—Subsection (b)
2 of section 36 of such Code is amended by adding at the
3 end the following new paragraph:

4 “(3) APPLICATION TO ONLY 1 SALE.—

5 “(A) IN GENERAL.—Subsection (a) shall
6 not apply to more than 1 sale or exchange of
7 a principal residence by the individual.

8 “(B) SPECIAL RULE FOR JOINT RE-
9 TURNS.—In the case of a joint return with re-
10 spect to the sale or exchange of a principal resi-
11 dence, if a credit was allowable under sub-
12 section (a) to a spouse for a prior sale or ex-
13 change of a principal residence, paragraph (1)
14 shall be applied by reducing the \$8,000 in sub-
15 paragraph (A) thereof and the \$4,000 in sub-
16 paragraph (B) thereof by the credit so allowable
17 (one-half of such credit in the case of a joint re-
18 turn).”.

19 (c) CONFORMING AMENDMENTS.—

20 (1) Subsection (c) of section 36 of such Code
21 is amended by striking paragraph (1) (defining first-
22 time homebuyer) and by redesignating paragraphs
23 (2), (3), (4), and (5) as paragraphs (1), (2), (3),
24 and (4), respectively.

1 (2) The heading for section 36 of such Code is
2 amended by striking “First-time”.

3 (3) The item in the table of sections for subpart
4 C of part IV of subchapter A of chapter 1 of such
5 Code relating to section 36 is amended to read as
6 follows:

“Sec. Homebuyer credit.”.

7 (d) **EFFECTIVE DATE.**—The amendments made by
8 this section shall apply to residences purchased after the
9 date of the enactment of this Act.

10 **SEC. 2. 1-YEAR EXTENSION OF HOMEBUYER CREDIT.**

11 (a) **IN GENERAL.**—Subsection (h) of section 36 of the
12 Internal Revenue Code is amended by striking “December
13 1, 2009” and inserting “December 1, 2010”.

14 (b) **EXTENSION OF WAIVER OF RECAPTURE.**—Sub-
15 paragraph (D) of section 36(f)(4) of such Code is amend-
16 ed—

17 (1) by striking “December 1, 2009” and insert-
18 ing “December 1, 2010”, and

19 (2) in the heading by striking “FOR PURCHASES
20 IN 2009” and inserting “CERTAIN PURCHASES”.

21 (c) **ELECTION TO TREAT PURCHASE IN PRIOR**
22 **YEAR.**—Subsection (g) of such Code is amended to read
23 as follows:

24 “(g) **ELECTION TO TREAT PURCHASE IN PRIOR**
25 **YEAR.**—For purposes of this section (other than sub-

1 sections (c) and (f)(4)(D)), a taxpayer may elect to treat
 2 a purchase of a principal residence—

3 “(1) after December 31, 2008, and before Jan-
 4 uary 1, 2010, as made on December 31, 2008, and
 5 “(2) after December 31, 2009, and before De-
 6 cember 1, 2010, as made on December 31, 2009.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall take effect on the date of the enactment
 9 of this Act.

10 **SEC. 3. DEDUCTION FOR LOSS FROM SALE OF PRINCIPAL**
 11 **RESIDENCE.**

12 (a) IN GENERAL.—Part VII of subchapter B of chap-
 13 ter I of the Internal Revenue Code of 1986 (relating to
 14 additional itemized deductions for individuals) is amended
 15 by redesignating section 224 as section 225 and by insert-
 16 ing after section 223 the following new section:

17 **“SEC. 224. LOSS FROM SALE OF PRINCIPAL RESIDENCE.**

18 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
 19 individual, there shall be allowed as a deduction for the
 20 taxable year any loss recognized on the sale or exchange
 21 of property during the taxable year if, during the 5-year
 22 period ending on the date of the sale or exchange, such
 23 property has been owned and used by the taxpayer as the
 24 taxpayer’s principal residence for periods aggregating 2
 25 years or more.

1 “(b) LIMITATIONS.—

2 “(1) AGGREGATE LIMITATION.—The aggregate
3 amount allowed as a deduction under subsection (a)
4 for all taxable years shall not exceed \$6,000
5 (\$12,000 in the case of a joint return).

6 “(2) ANNUAL LIMITATION.—

7 “(A) IN GENERAL.—The amount allowed
8 to a taxpayer as a deduction under subsection
9 (a) for a taxable year shall not exceed \$2,000
10 (\$4,000 in the case of a joint return).

11 “(B) CARRYFORWARD.—If the deduction
12 allowable under subsection (a) for any taxable
13 year exceeds the limitation imposed by subpara-
14 graph (A) for the taxable year, the excess shall
15 be carried to each of the 2 succeeding taxable
16 years and added to the deduction allowable
17 under subsection (a) for such succeeding year.

18 “(3) EXCLUSION OF LOSS ALLOCATED TO NON-
19 QUALIFIED USE.—

20 “(A) IN GENERAL.—Subsection (a) shall
21 not apply to so much of the loss from the sale
22 or exchange of property as is allocated to peri-
23 ods of nonqualified use.

“(B) ALLOCATION.—For purposes of subparagraph (A), loss shall be allocated to periods of nonqualified use based on the ratio which—

“(i) the aggregate periods of nonqualified use during the period such property was owned by the taxpayer, bears to

“(ii) the period such property was owned by the taxpayer.

“(C) PERIOD OF NONQUALIFIED USE; COORDINATION WITH RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—For purposes of this paragraph, rules similar to the rules of subparagraphs (C) and (D) of section 121(b)(5) shall apply.

“(4) APPLICATION TO ONLY 1 SALE.—

“(A) IN GENERAL.—Subsection (a) shall not apply to more than 1 sale or exchange of a principal residence by the taxpayer.

“(B) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return with respect to the sale or exchange of a principal residence, if a deduction was allowable under subsection (a) to a spouse for a prior sale or exchange of a principal residence, paragraphs (1) and (2)(A) shall be applied by reducing the dol-

1 lar amounts therein by the deduction so allow-
 2 able (one-half of such deduction in the case of
 3 a joint return).

4 “(c) APPLICABLE RULES.—For purposes of this sec-
 5 tion, rules similar to the rules of subsection (d) of section
 6 121 shall apply, except that paragraph (6) thereof shall
 7 be applied by substituting ‘loss’ for ‘gain’.

8 “(d) ELECTION TO HAVE SECTION NOT APPLY.—
 9 This section shall not apply to any sale or exchange with
 10 respect to which the taxpayer elects not to have this sec-
 11 tion apply.

12 “(e) TERMINATION.—The section shall not apply to
 13 the sale or exchange of a principal residence after Decem-
 14 ber 31, 2010.”.

15 (b) DEDUCTION ALLOWED IN COMPUTING AD-
 16 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
 17 such Code is amended by inserting before the last sentence
 18 the following new paragraph:

19 “(22) LOSS FROM SALE OF PRINCIPAL RESI-
 20 DENCE.—The deduction allowed by section 224.”.

21 (c) CLERICAL AMENDMENTS.—The table of sections
 22 for part VII of subchapter B of chapter 1 of such Code
 23 is amended by striking the item relating to section 224
 24 and inserting the following:

“Sec. 224. Loss from sale of principal residence.

“Sec. 225. Cross reference.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2008.

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